

- (1) The Appeals Board has the jurisdiction and authority to review preliminary hearing findings related to whether an employee has sustained personal injury by accident arising out of and in the course of their employment. See K.S.A. 44-534a.
- (2) The Preliminary Hearing Order of the Special Administrative Law Judge should be affirmed. At this juncture of the proceeding, the Appeals Board agrees with the analysis of the Special Administrative Law Judge. The medical records from the emergency room do not indicate claimant sustained a work-related injury. On the other hand, both respondent's manager and assistant manager testified that claimant told them in different conversations that she had not injured her back at work. The Special Administrative Law

Judge had the opportunity to observe the demeanor of the witnesses and assess their credibility. However, we reach the same conclusion as the Special Administrative Law Judge after reviewing the entire record.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Special Administrative Law Judge William F. Morrissey entered in this proceeding on August 17, 1995 should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of November 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS
Douglas Hobbs, Wichita, KS
William F. Morrissey, Special Administrative Law Judge
Philip S. Harness, Director